

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:17-cv-00676-JEB**

NISKANEN CENTER, INC. v. UNITED STATES
DEPARTMENT OF ENERGY
Assigned to: Judge James E. Boasberg
Cause: 05:552 Freedom of Information Act

Date Filed: 04/17/2017
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

NISKANEN CENTER, INC.

represented by **Eric Robert Glitzenstein**
MEYER GLITZENSTEIN & EUBANKS
LLP
4115 Wisconsin Avenue, NW
Suite 210
Washington, DC 20016
(202) 588-5206 x 13
Fax: (202) 588-5049
Email: eglitzstein@meyerglitz.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

David G. Bookbinder
1700 Bryan Point Road
Accokeek, MD 20607
(301) 751-0611
Email: david.bookbinder@verizon.net
ATTORNEY TO BE NOTICED

V.

Defendant

**UNITED STATES DEPARTMENT
OF ENERGY**

represented by **Melanie Dyani Hendry**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2510
Fax: (202) 252-2599
Email: melanie.hendry2@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/17/2017	<u>1</u>	COMPLAINT against All Defendants (Filing fee \$ 400 receipt number 0090-4916948), CIVIL COVER SHEET by NISKANEN CENTER, REQUEST FOR SUMMONS TO ISSUE filed by NISKANEN CENTER. (Attachments: # <u>1</u> Summons, # <u>2</u> Civil Cover Sheet)(Bookbinder, David) (Entered: 04/17/2017)
04/18/2017		Case Assigned to Judge James E. Boasberg. (zsb) (Entered: 04/18/2017)
04/18/2017	<u>2</u>	SUMMONS (1) Issued Electronically as to UNITED STATES DEPARTMENT OF ENERGY (Attachment: # <u>1</u> Consent Form)(zsb) (Entered: 04/18/2017)
04/18/2017		SUMMONS Not Issued as to U.S. Attorney and U.S. Attorney General.....SUMMONS NOT FILED AT THE TIME COMPLAINT WAS FILED. (zsb) (Entered: 04/18/2017)
04/18/2017	<u>3</u>	ENTERED IN ERROR....REQUEST FOR SUMMONS TO ISSUE filed by NISKANEN CENTER, INC..(Bookbinder, David) Modified on 4/19/2017 (znmw).

		(Entered: 04/18/2017)
04/18/2017	<u>4</u>	ENTERED IN ERROR.....REQUEST FOR SUMMONS TO ISSUE filed by NISKANEN CENTER, INC..(Bookbinder, David) Modified on 4/19/2017 (znmw). (Entered: 04/18/2017)
04/20/2017	<u>5</u>	REQUEST FOR SUMMONS TO ISSUE filed by NISKANEN CENTER, INC..(Bookbinder, David) (Entered: 04/20/2017)
04/20/2017	<u>6</u>	REQUEST FOR SUMMONS TO ISSUE filed by NISKANEN CENTER, INC..(Bookbinder, David) (Entered: 04/20/2017)
04/20/2017	<u>7</u>	SUMMONS (2) Issued Electronically as to U.S. Attorney and U.S. Attorney General (Attachment: # <u>1</u> Consent Form)(sb) (Entered: 04/20/2017)
05/25/2017	<u>8</u>	NOTICE of Appearance by Melanie Dyani Hendry on behalf of UNITED STATES DEPARTMENT OF ENERGY (Hendry, Melanie) (Entered: 05/25/2017)
05/25/2017	<u>9</u>	ANSWER to Complaint by UNITED STATES DEPARTMENT OF ENERGY.(Hendry, Melanie) (Entered: 05/25/2017)
05/26/2017		MINUTE ORDER: The Court ORDERS that the parties shall meet, confer, and submit a proposed briefing schedule by June 8, 2017. Signed by Judge James E. Boasberg on 5/26/2017. (lcjeb1) (Entered: 05/26/2017)
05/26/2017		Set/Reset Deadlines: Proposed Briefing Schedule due by 6/8/2017 (lsj) (Entered: 05/26/2017)
06/07/2017	<u>10</u>	Joint STATUS REPORT by UNITED STATES DEPARTMENT OF ENERGY. (Hendry, Melanie) (Entered: 06/07/2017)
06/07/2017		MINUTE ORDER: The Court ORDERS that the parties shall submit a joint status report on or before August 31, 2017, to update the Court on the status of the case, and, if any issues remain, to propose a summary-judgment briefing schedule. Signed by Judge James E. Boasberg on 6/7/2017. (lcjeb1) (Entered: 06/07/2017)
06/07/2017		Set/Reset Deadlines: Joint Status Report due by 8/31/2017. (nbn) (Entered: 06/07/2017)
08/30/2017	<u>11</u>	Joint STATUS REPORT by UNITED STATES DEPARTMENT OF ENERGY. (Hendry, Melanie) (Entered: 08/30/2017)
08/30/2017		MINUTE ORDER ADOPTING <u>11</u> Joint Status Report. The Court ORDERS that on or before October 27, 2017, the parties shall submit a Joint Status Report and, if any issues remain, provide a proposed briefing schedule to the Court. Signed by Judge James E. Boasberg on 8/30/17. (lcjeb1) (Entered: 08/30/2017)
08/30/2017		Set/Reset Deadlines: Joint Status Report due by 10/27/2017. (nbn) (Entered: 08/31/2017)
10/17/2017	<u>12</u>	NOTICE of Appearance by Eric Robert Glitzenstein on behalf of NISKANEN CENTER, INC. (Glitzenstein, Eric) (Entered: 10/17/2017)
10/27/2017	<u>13</u>	Joint STATUS REPORT by UNITED STATES DEPARTMENT OF ENERGY. (Hendry, Melanie) (Entered: 10/27/2017)
10/27/2017		MINUTE ORDER: The Court ADOPTS the parties' briefing schedule as set out in their 13 status report. The Court ORDERS that: 1) Defendant's motion for summary judgment shall be filed on or before December 15, 2017; 2) Plaintiff's opposition and cross-motion shall be filed on or before February 1, 2018; 3) Defendant's opposition and reply shall be filed on or before March 22, 2018; and 4) Plaintiff's reply shall be filed on or before April 19, 2018. So ORDERED by Judge James E. Boasberg on 10/27/17. (lcjeb1) (Entered: 10/27/2017) (Entered: 10/27/2017)
10/27/2017		Set/Reset Deadlines: Summary Judgment motions due by 12/15/2017. Response to Motion for Summary Judgment due by 2/1/2018. Reply to Motion for Summary Judgment due by 3/22/2018. Replies due by 4/19/2018. (nbn) (Entered: 10/31/2017)
12/13/2017	<u>14</u>	Consent MOTION for Extension of Time to File <i>Summary Judgment Motion</i> by UNITED STATES DEPARTMENT OF ENERGY (Hendry, Melanie) (Entered:

		12/13/2017)
12/13/2017		MINUTE ORDER GRANTING Defendant's <u>14</u> Motion for Extension of Time to File. The Court ORDERS that: (1) Defendant's Motion for Summary Judgment shall be filed by January 19, 2018; (2) Plaintiff's Opposition and Cross-Motion shall be filed by March 23, 2018; (3) Defendant's Opposition and Reply shall be filed by May 11, 2018; and (4) Plaintiff's Reply shall be filed by June 8, 2018. So ORDERED by Judge James E. Boasberg on 12/13/17. (lcjeb1) (Entered: 12/13/2017)
12/13/2017		Set/Reset Deadlines: Summary Judgment motions due by 1/19/2018. Response to Motion for Summary Judgment due by 3/23/2018. Reply to Motion for Summary Judgment due by 5/11/2018. Replies due by 6/8/2018. (nbn) (Entered: 12/14/2017)
01/17/2018	<u>15</u>	Consent MOTION for Extension of Time to File <i>Summary Judgment Motion and to Amend Briefing Schedule</i> by UNITED STATES DEPARTMENT OF ENERGY (Attachments: # <u>1</u> Text of Proposed Order)(Hendry, Melanie) (Entered: 01/17/2018)
01/18/2018		MINUTE ORDER GRANTING Consent <u>15</u> Motion for Extension of Time to File. The Court ORDERS that: (1) Defendant's Motion for Summary Judgment shall be filed by February 2, 2018; (2) Plaintiff's Opposition and Cross-Motion shall be filed by April 6, 2018; (3) Defendant's Opposition and Reply shall be filed by May 25, 2018; and (4) Plaintiff's Reply shall be filed by June 22, 2018. So ORDERED by Judge James E. Boasberg on 1/18/2018. (lcjeb3) (Entered: 01/18/2018)
01/18/2018		Set/Reset Deadlines: Summary Judgment motions due by 2/2/2018. Response to Motion for Summary Judgment due by 4/6/2018. Reply to Motion for Summary Judgment due by 5/25/2018. Plaintiff Replies due by 6/22/2018. (nbn) (Entered: 01/18/2018)
02/02/2018	<u>16</u>	MOTION for Summary Judgment by UNITED STATES DEPARTMENT OF ENERGY (Attachments: # <u>1</u> Declaration of Alexander C. Morris, # <u>2</u> Statement of Facts)(Hendry, Melanie) (Entered: 02/02/2018)
04/06/2018	<u>17</u>	Memorandum in opposition to re <u>16</u> MOTION for Summary Judgment filed by NISKANEN CENTER, INC.. (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Exhibit Exhibit B, # <u>3</u> Exhibit Exhibit C, # <u>4</u> Exhibit Exhibit D, # <u>5</u> Exhibit Exhibit E, # <u>6</u> Exhibit Exhibit F, # <u>7</u> Exhibit Exhibit G, # <u>8</u> Exhibit Exhibit H, # <u>9</u> Exhibit Exhibit I, # <u>10</u> Exhibit Exhibit J, # <u>11</u> Exhibit Exhibit K, # <u>12</u> Exhibit Exhibit L, # <u>13</u> Exhibit Exhibit M, # <u>14</u> Exhibit Exhibit N, # <u>15</u> Exhibit Exhibit O, # <u>16</u> Exhibit Exhibit P, # <u>17</u> Exhibit Exhibit Q, # <u>18</u> Exhibit Exhibit R, # <u>19</u> Exhibit Exhibit S, # <u>20</u> Exhibit Exhibit T, # <u>21</u> Statement of Facts Response to Statement of Material Facts, # <u>22</u> Text of Proposed Order Proposed Order)(Glitzenstein, Eric) (Entered: 04/06/2018)
04/06/2018	<u>18</u>	MOTION for Summary Judgment by NISKANEN CENTER, INC. (Attachments: # <u>1</u> Statement of Facts Statement of Material Facts, # <u>2</u> Exhibit Exhibit A, # <u>3</u> Exhibit Exhibit B, # <u>4</u> Exhibit Exhibit C, # <u>5</u> Exhibit Exhibit D, # <u>6</u> Exhibit Exhibit E, # <u>7</u> Exhibit Exhibit F, # <u>8</u> Exhibit Exhibit G, # <u>9</u> Exhibit Exhibit H, # <u>10</u> Exhibit Exhibit I, # <u>11</u> Exhibit Exhibit J, # <u>12</u> Exhibit Exhibit K, # <u>13</u> Exhibit Exhibit L, # <u>14</u> Exhibit Exhibit M, # <u>15</u> Exhibit Exhibit N, # <u>16</u> Exhibit Exhibit O, # <u>17</u> Exhibit Exhibit P, # <u>18</u> Exhibit Exhibit Q, # <u>19</u> Exhibit Exhibit R, # <u>20</u> Exhibit Exhibit S, # <u>21</u> Exhibit Exhibit T, # <u>22</u> Text of Proposed Order Proposed Order)(Glitzenstein, Eric) (Entered: 04/06/2018)
05/22/2018	<u>19</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>18</u> MOTION for Summary Judgment by UNITED STATES DEPARTMENT OF ENERGY (Hendry, Melanie) (Entered: 05/22/2018)
05/22/2018		MINUTE ORDER GRANTING Defendant's <u>19</u> Motion for Extension of Time to File Response/Reply. The Court ORDERS that Defendant shall file its opposition and reply on or before June 22, 2018 and Plaintiff shall reply by July 23, 2018. So ORDERED by Judge James E. Boasberg on 5/22/18. (lcjeb1) (Entered: 05/22/2018)
05/23/2018		Set/Reset Deadlines: Defendant's Reply to Motion for Summary Judgment due by 6/22/2018. Plaintiff's Reply due by 7/23/2018. (lsj) (Entered: 05/23/2018)
06/22/2018	<u>20</u>	RESPONSE re <u>18</u> MOTION for Summary Judgment filed by UNITED STATES DEPARTMENT OF ENERGY. (Attachments: # <u>1</u> Declaration of Janet Gellicci, # <u>2</u> Supplemental Declaration of Alexander C. Morris, # <u>3</u> Statement of Facts)(Hendry,

		Melanie) (Entered: 06/22/2018)
06/22/2018	<u>21</u>	REPLY to opposition to motion re <u>16</u> MOTION for Summary Judgment filed by UNITED STATES DEPARTMENT OF ENERGY. (Attachments: # <u>1</u> Declaration of Janet Gellicci, # <u>2</u> Declaration of Alexander C. Morris)(Hendry, Melanie) (Entered: 06/22/2018)
07/19/2018	<u>22</u>	REPLY to opposition to motion re <u>18</u> MOTION for Summary Judgment filed by NISKANEN CENTER, INC.. (Attachments: # <u>1</u> Exhibit Plaintiff's Exhibit U, # <u>2</u> Exhibit Plaintiff's Exhibit V, # <u>3</u> Exhibit Plaintiff's Exhibit W)(Glitzenstein, Eric) (Entered: 07/19/2018)
07/31/2018		MINUTE ORDER: The Court ORDERS that Defendant shall provide the Court for in camera review by August 7, 2018, a set of clean and redacted documents showing the withholdings discussed in the summary-judgment briefing. So ORDERED by Judge James E. Boasberg on 7/31/18. (lcjeb1) (Entered: 07/31/2018)
07/31/2018		Set/Reset Deadlines: In-Camera Submission due by 8/7/2018. (znbn) (Entered: 07/31/2018)
08/02/2018	<u>23</u>	NOTICE of Submission for In Camera Review by UNITED STATES DEPARTMENT OF ENERGY re <u>16</u> MOTION for Summary Judgment (Hendry, Melanie) (Entered: 08/02/2018)
09/13/2018	<u>24</u>	ORDER DENYING Defendant's <u>16</u> Motion for Summary Judgment and GRANTING IN PART and DENYING IN PART Plaintiff's <u>18</u> Motion for Summary Judgment. The Court ORDERS that the parties shall submit a Joint Status Report, including a joint proposed briefing schedule, on or before October 15, 2018. Signed by Judge James E. Boasberg on 9/13/2018. (lcjeb1) (Entered: 09/13/2018)
09/13/2018	<u>25</u>	MEMORANDUM OPINION re <u>24</u> Order on Motions for Summary Judgment. Signed by Judge James E. Boasberg on 9/13/2018. (lcjeb1) (Entered: 09/13/2018)
09/13/2018		Set/Reset Deadlines: Joint Proposed Briefing Schedule due by 10/15/2018. (znbn) (Entered: 09/14/2018)
10/15/2018	<u>26</u>	Joint STATUS REPORT by UNITED STATES DEPARTMENT OF ENERGY. (Hendry, Melanie) (Entered: 10/15/2018)
10/15/2018		MINUTE ORDER ADOPTING the parties' <u>26</u> Joint Status Report. The Court ORDERS that the parties shall file a further joint status report and, if necessary, a proposed briefing schedule, by November 15, 2018. So ORDERED by Judge James E. Boasberg on 10/15/2018. (lcjeb1) (Entered: 10/15/2018)
10/15/2018		Set/Reset Deadlines: Joint Proposed Briefing Schedule due by 11/15/2018. (znbn) (Entered: 10/15/2018)
10/15/2018	<u>27</u>	MOTION for Extension of Time by UNITED STATES DEPARTMENT OF ENERGY. (See Docket Entry <u>26</u> to view document) (tth) (Entered: 10/18/2018)
11/13/2018	<u>28</u>	WITHDRAWN PURSUANT TO MINUTE ORDER FILED ON 11/13/2018.....NOTICE OF APPEAL TO DC CIRCUIT COURT as to <u>24</u> Order on Motion for Summary Judgment, <u>25</u> Memorandum & Opinion by UNITED STATES DEPARTMENT OF ENERGY. Fee Status: No Fee Paid. Parties have been notified. (Hendry, Melanie); Modified on 11/14/2018 (tth). (Entered: 11/13/2018)
11/13/2018	<u>29</u>	Unopposed MOTION to Withdraw <u>28</u> Notice of Appeal to DC Circuit Court by UNITED STATES DEPARTMENT OF ENERGY (Hendry, Melanie) (Entered: 11/13/2018)
11/13/2018		MINUTE ORDER GRANTING Unopposed <u>29</u> Motion to Withdraw Notice of Appeal. So ORDERED by Judge James E. Boasberg on 11/13/2018. (lcjeb1) (Entered: 11/13/2018)
11/15/2018	<u>30</u>	Joint STATUS REPORT by NISKANEN CENTER, INC.. (Glitzenstein, Eric) (Entered: 11/15/2018)
11/16/2018		MINUTE ORDER ADOPTING the parties' <u>30</u> Joint Status Report. The Court ORDERS that the parties shall file a further joint status report by December 18, 2018.

		So ORDERED by Judge James E. Boasberg on 11/16/2018. (lcjeb1) (Entered: 11/16/2018)
11/16/2018		Set/Reset Deadlines: Joint Status Report due by 12/18/2018. (znbn) (Entered: 11/16/2018)
12/18/2018	<u>31</u>	Joint STATUS REPORT by UNITED STATES DEPARTMENT OF ENERGY. (Hendry, Melanie) (Entered: 12/18/2018)
12/19/2018		MINUTE ORDER ADOPTING the parties' <u>31</u> Joint Status Report. The Court ORDERS that the parties shall file a further joint status report by January 31, 2019. So ORDERED by Judge James E. Boasberg on 12/19/2018. (lcjeb1) (Entered: 12/19/2018)
12/19/2018		Set/Reset Deadlines: Joint Status Report due by 1/31/2019. (znbn) (Entered: 12/19/2018)
01/31/2019	<u>32</u>	Joint STATUS REPORT by UNITED STATES DEPARTMENT OF ENERGY. (Hendry, Melanie) (Entered: 01/31/2019)
01/31/2019		MINUTE ORDER ADOPTING the parties' <u>32</u> Joint Status Report. The Court ORDERS that the parties shall file a further joint status report by April 5, 2019. So ORDERED by Judge James E. Boasberg on 1/31/2019. (lcjeb1) (Entered: 01/31/2019)
01/31/2019		Set/Reset Deadlines: Joint Status Report due by 4/5/2019. (znbn) (Entered: 02/01/2019)
04/05/2019	<u>33</u>	Joint STATUS REPORT by UNITED STATES DEPARTMENT OF ENERGY. (Hendry, Melanie) (Entered: 04/05/2019)
04/05/2019		MINUTE ORDER ADOPTING the parties' <u>33</u> Joint Status Report. The Court ORDERS that the parties shall file a further joint status report by May 22, 2019. So ORDERED by Judge James E. Boasberg on 4/5/2019. (lcjeb1) (Entered: 04/05/2019)
04/05/2019		Set/Reset Deadlines: Joint Status Report due by 5/22/2019. (znbn) (Entered: 04/05/2019)
05/22/2019	<u>34</u>	Joint STATUS REPORT by UNITED STATES DEPARTMENT OF ENERGY. (Hendry, Melanie) (Entered: 05/22/2019)
05/23/2019		MINUTE ORDER ADOPTING the parties' <u>34</u> Joint Status Report and briefing schedule. The Court ORDERS that: 1) Plaintiff's Motion for an award of costs and fees shall be due by May 31, 2019; 2) Defendant's Opposition shall be due by July 1, 2019; and 3) Plaintiff's Reply shall be due by July 19, 2019. So ORDERED by Judge James E. Boasberg on 5/23/2019. (lcjeb1) (Entered: 05/23/2019)
05/23/2019		Set/Reset Deadlines: Motions due by 5/31/2019. Responses due by 7/1/2019. Replies due by 7/19/2019. (znbn) (Entered: 05/24/2019)
05/31/2019	<u>35</u>	MOTION for Attorney Fees by NISKANEN CENTER, INC. (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Exhibit Exhibit B, # <u>3</u> Exhibit Exhibit C, # <u>4</u> Exhibit Exhibit D, # <u>5</u> Exhibit Exhibit E, # <u>6</u> Exhibit Exhibit F, # <u>7</u> Exhibit Exhibit G, # <u>8</u> Exhibit Exhibit H, # <u>9</u> Exhibit Exhibit I, # <u>10</u> Exhibit Exhibit J, # <u>11</u> Text of Proposed Order Proposed Order)(Glitzenstein, Eric) (Entered: 05/31/2019)
06/27/2019	<u>36</u>	Consent MOTION for Extension of Time to File Response/Reply as to <u>35</u> MOTION for Attorney Fees <i>and to Amend Briefing Schedule</i> by UNITED STATES DEPARTMENT OF ENERGY (Hendry, Melanie) (Entered: 06/27/2019)
07/01/2019		MINUTE ORDER GRANTING Consent <u>36</u> Motion for Extension of Time. The Court ORDERS that: (1) Defendant shall file its Opposition by July 22, 2019; and (2) Plaintiff shall file its Reply by August 22, 2019. So ORDERED by Judge James E. Boasberg on 7/1/2019. (lcjeb1) (Entered: 07/01/2019)
07/01/2019		Set/Reset Deadlines: Responses due by 7/22/2019. Replies due by 8/22/2019. (znbn) (Entered: 07/01/2019)